

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MIDAS FUND, INC.,

Plaintiff,

ORDER

- v -

07 Civ. 6707 (NRB)

GAMMON GOLD, INC., et al.,

Defendants.

-----X
NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

WHEREAS, by letter dated September 14, 2007, the defendants sought leave to file motions to dismiss this securities fraud action on several grounds, including, inter alia, the failure to adequately allege scienter as required by Fed. R. Civ. P. 9(b) and the Private Securities Litigation Reform Act ("PSLRA"); and

WHEREAS the Court granted Midas Fund, Inc. ("Midas") "one last" opportunity to amend its complaint and, shortly thereafter, Midas filed a second amended complaint; and

WHEREAS the defendants subsequently filed motions to dismiss the second amended complaint on the grounds outlined in their September 17 letter; and

WHEREAS the defendants' motions were fully briefed on February 15, 2008 and the Court heard oral argument on the motions on July 8, 2008; and

WHEREAS a related class action against the defendants has been pending before the Superior Court of Justice in Ontario, Canada and the named plaintiff in that action recently filed an amended complaint which includes detailed allegations concerning the non-underwriter defendants' knowledge of the Ocampo mine's production capacity, which potentially could impact the pending motions; and

WHEREAS, by letter dated July 15, 2008, Midas has sought leave to file a third amended complaint that includes many of the newly alleged facts in the amended class action complaint; it is hereby

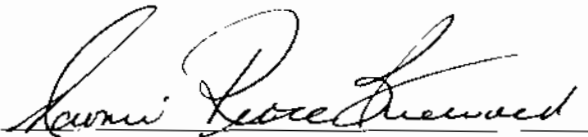
ORDERED that Midas shall have a **FINAL** opportunity to amend its complaint within thirty (30) days, if counsel for the plaintiff believes he can do so consistently with Fed. R. Civ. P. 11 and in a manner that separately addresses the issues identified by both sets of defendants; and it is further

ORDERED that the defendants' pending motions to dismiss are denied without prejudice to their refiling motions addressed to the third amended complaint;

ORDERED that if, after reviewing the third amended complaint, the defendants still wish to make their motions, the parties shall agree on a proposed briefing schedule, spanning no more than 60 days between the due dates for the defendants'

opening and reply briefs, and submit a proposed scheduling order by no later than September 5, 2008.

Dated: New York, New York
July 24, 2008



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

A copy of the foregoing Order has been mailed on this date to the following:

Counsel for Plaintiff

Debra J. Guzov, Esq.
Gregory P. Vidler, Esq.
Guzov Offsink, LLC
600 Madison Avenue, 14th Floor
New York, NY 10022

Counsel for Defendants

Brooke E. Pietrzak, Esq.
Dorsey & Whitney LLP
250 Park Avenue
New York, NY 10177

John Rock, Esq.
Dorsey & Whitney LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402

Daniel R. Murdock, Esq.
Philip M. Smith, Esq.
Patton Botts LLP
1185 Avenue of the Americas, 30th Floor
New York, NY 10036